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January 26, 1999

VIA HAND DELIVERY

Magalie Roman Salas, Secretary
Federal Communications Commission
The Portals
445 Twelfth Street, S.W.
Washington, D.C. 20554

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JAN 26 1999
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

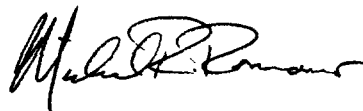
Re: Ex Parte Presentation in CC Docket No. 98-84
McLeodUSA Telecommunications Services, Inc. Petition for Preemption

Dear Ms. Salas:

A copy of the attached written *ex parte* notification was filed yesterday with the Commission pursuant to 47 C.F.R. § 1.1206(a) and (b). A copy of the written notification, which is attached to this letter, has been sent to all parties today by overnight mail, and to Commission Staff and ITS by hand delivery.

Thank you for your attention to this correspondence. An original and one (1) copy of this letter and the relevant attachments are provided. Please date stamp and return the additional copy of this filing for our records.

Sincerely,



Michael R. Romano

Enclosures

cc: Michelle Carey
Cecilia Stephens
Janice Myles
ITS
Service List

267450.2

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January 25, 1999

VIA HAND DELIVERY

Magalie Roman Salas, Secretary
Federal Communications Commission
The Portals
445 Twelfth Street, S.W.
Washington, D.C. 20554

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JAN 26 1999
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OFFICE OF THE SECRETARY

Re: Ex Parte Presentation in CC Docket No. 98-84
McLeodUSA Telecommunications Services, Inc. Petition for Preemption

Dear Ms. Salas:

Pursuant to Sections 1.1206(a) and (b) of the Commission's Rules, 47 C.F.R. § 1.1206(a) and (b), this letter is to provide notice of an *ex parte* presentation in the above-referenced proceeding on Friday, January 22, 1999. This presentation was made by Richard S. Lipman of McLeodUSA Telecommunications Services, Inc. ("McLeodUSA"), and Patrick J. Donovan and Michael R. Romano of Swidler Berlin Shereff Friedman, LLP, to Michelle Carey, Deputy Chief, Policy and Programming Planning Division, Common Carrier Bureau. The purpose of the meeting was to provide the Commission with further insight into how the withdrawal of US West's Centrex Plus service in Nebraska has unlawfully restricted McLeodUSA's efforts to provide competitive services in that state. We discussed the following points:

- the factual background leading up to the filing of the petition for preemption by McLeodUSA;
- how the Nebraska Public Service Commission's ("PSC") failure to examine the anticompetitive effects of US WEST's withdrawal of Centrex Plus service under federal law has harmed the development of competition in that state;
- how local competition through resale in Nebraska compares to the state of resale competition in other surrounding jurisdictions where Centrex Plus is available for resale;
- why sections 251 and 253 of the Communications Act, as amended, provide the Commission with the authority to address the withdrawal of Centrex in Nebraska; and

Magalie Roman Salas
January 25, 1999
Page 2

- what steps the Commission might take to address the anticompetitive effects of the withdrawal of Centrex Plus by U S WEST.

A three-page outline containing a more detailed summary of McLeodUSA's position was provided to Ms. Carey at the January 22 meeting. McLeodUSA also provided Ms. Carey with a series of maps and charts providing background on McLeodUSA and a comparison of the total number of non-residential access lines served by U S WEST and the total number of non-residential access lines served by competitors in Nebraska and in the surrounding jurisdictions. Copies of these documents are attached to this filing for inclusion in the public record.

Thank you for your attention to this correspondence. Pursuant to the Commission's rules, an original and one (1) copy of this letter and the relevant attachments are provided. Please date stamp and return the additional copy of this filing for our records.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael R. Romano". The signature is fluid and cursive, with the first name "Michael" and last name "Romano" clearly distinguishable.

Michael R. Romano

Enclosures

cc: Michelle Carey

**MCLEOD USA TELECOMMUNICATIONS SERVICES, INC.
OVERVIEW OF NEBRASKA CENTREX WITHDRAWAL
AND THE NEED FOR FEDERAL ACTION
CC DOCKET NO. 98-84**

Factual Background:

- McLeodUSA is a CLEC operating in ten states in the upper Midwest, six of which (IA, MN, ND, SD, WY, and CO) are located in U S WEST's region. McLeodUSA's primary platform for delivering local exchange services is through the resale of U S WEST's Centrex Plus.
- On February 5, 1996 – three days before the 1996 Act was signed – U S WEST notified each state commission in its region of its intent to restrict Centrex Plus to existing customers. McLeodUSA, MCI, and AT&T filed complaints against U S WEST with the Nebraska PSC on February 12, 1996, alleging that the withdrawal of Centrex Plus was a resale restriction in violation of federal and state law.
- On November 25, 1996, the Nebraska PSC issued a decision denying the complaints. Rather than engage in any examination or discussion of the anticompetitive effects of the Centrex Plus withdrawal under federal law, the PSC denied the complaints because there was no express prohibition on withdrawals of service under state or federal law. After a motion for rehearing of the PSC's decision was denied, McLeodUSA and the other CLECs appealed the decision to the Nebraska courts. (By contrast, the state commissions in each of the jurisdictions surrounding Nebraska rejected U S WEST's effort to withdraw Centrex Plus.)
- On May 29, 1998, while the appeal was pending, McLeodUSA filed a petition for preemption of the Nebraska PSC's decision that let U S WEST's rate list/Centrex Plus withdrawal take effect.
- On August 14, 1998, while the petition was still pending, the Nebraska Supreme Court vacated the PSC's decision, finding that the PSC never had jurisdiction to entertain the CLECs' complaints because they were not certificated carriers in Nebraska.
- Due solely to the unavailability of Centrex for resale in Nebraska, McLeodUSA today provides service in all U S WEST states surrounding Nebraska, but not in Nebraska itself.

Legal Considerations:

- Section 253 prohibits state requirements that "may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service."
 - A legal requirement that indirectly restricts the ability of competitors to enter a telecommunications market can violate section 253.
- This proceeding is not moot.
 - The fact that the Nebraska Supreme Court vacated the Nebraska PSC's decision does not change the underlying fact that a state legal action – permitting U S WEST's rate list to take effect unchecked – has prevented McLeodUSA from using its Centrex Plus platform to provide service in Nebraska as it does in every other state.
- In its *Local Competition Order*, the Commission gave states the responsibility to monitor ILEC withdrawals of service so that they do not contravene the 1996 Act's resale provisions.
 - Specifically, in paragraph 968, the Commission directed state commissions "to ensure that procedural mechanisms exist for processing complaints regarding incumbent LEC withdrawals of services."
 - By failing to consider the competitive implications of U S WEST's rate list amendments under federal law, the Nebraska PSC breached that duty.
- Preemption in a case such as this is not unprecedented. In its *Texas Preemption Order* (CCBPol 96-13, et al.), the Commission preempted a SWBT Centrex tariff restriction that prevented resellers from serving locations unless they were on continuous property.
 - According to the Commission, "[E]nforcement of the continuous property restriction in SWBT's centrex resale tariff 'has the effect' of prohibiting the ability of any entity to provide a telecommunications service, i.e., centrex service, through resale in violation of the provisions of section 253(a) of the Act standing alone." (¶ 220)

Remedies:

- State Remedies: Foreclosed by Nebraska Supreme Court.
 - The state's statute of limitations – which require rate list challenges to be presented within 120 days of filing – prevents even a certificated CLEC from now challenging the February 1996 withdrawal of service by U S WEST.
- Federal Remedies: Three general possibilities
 - Complaint: Frontier has had a complaint against U S WEST for withdrawing Centrex Plus pending with the Commission for more than two years.
 - Preemption: Just as in the *Texas Preemption Order*, the Commission could preempt the effectiveness of a tariff/rate list that contains impermissible restrictions on resale. Such a ruling would effectively modify U S WEST's rate list so that Centrex Plus would be made available in Nebraska to more than just grandfathered customers.
 - Section 251 Oversight Authority: The Commission retains authority to review ILEC restrictions on resale independent of any state action. Since the Commission gave states the responsibility to ensure that ILEC withdrawals of service do not have anticompetitive implications, a state's failure to carry out that responsibility should leave this Commission with the ability to act in the state's stead to prevent unlawful resale restrictions. This would not violate the *Iowa Utilities Board* holding because this proceeding does not involve enforcement of an interconnection/resale agreement. The *Iowa Utilities Board* decision specifically upheld the Commission's authority to promulgate regulations implementing section 251(c)(4)(B), which governs resale restrictions. (In the *Texas Preemption Order*, the Commission preempted enforcement of the SWBT tariff requirement pursuant to *both* section 253 and section 251(c)(4)(B) as an independent matter. (§ 223))

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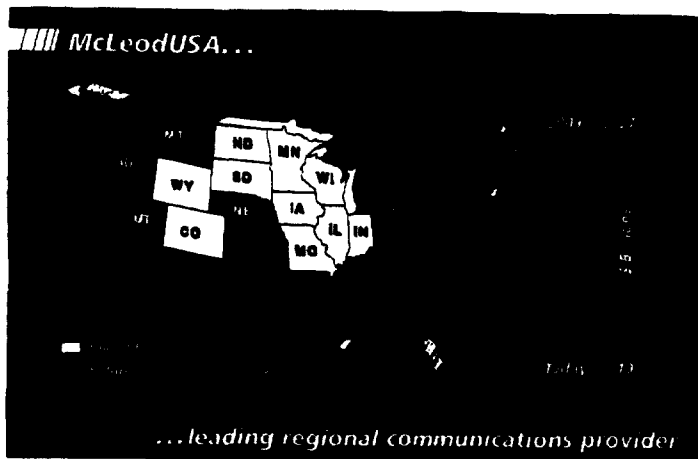


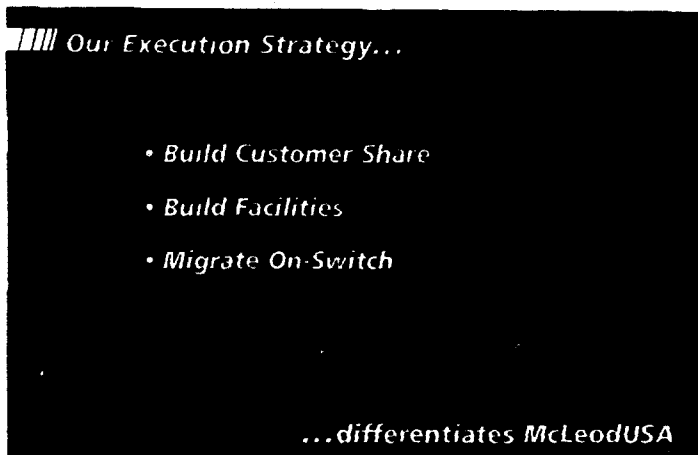
The statements contained in this document are forward-looking statements that involve risks and uncertainties, including, but not limited to revision of expansion plans, availability of financing and regulatory approvals, the number of potential customers in a target market, the existence of strategic alliances or relationships, technological, regulatory or other developments in the Company's business, changes in the competitive climate in which the Company operates and the emergence of future opportunities, all of which could cause actual results and experiences of McLeodUSA Incorporated to differ materially from anticipated results and expectations expressed in the forward-looking statements contained herein. These and other applicable risks are summarized under the caption "Business-Risk-Factors" and elsewhere in the Company's Annual Report on Form 10-K for its fiscal year ended December 31, 1997, which is filed with the Securities and Exchange Commission.

For more information contact:

Bryce Nemitz

**McLeodUSA Incorporated
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bnemitz@mcleodusa.com**



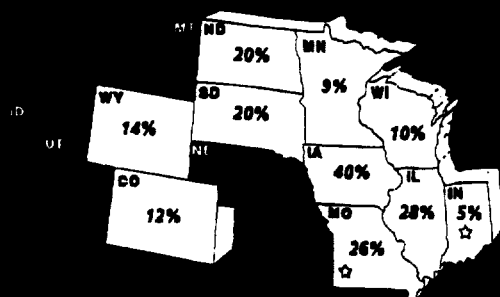






Customer Share Success...

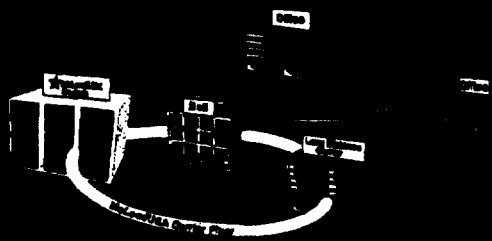
Local Business Lines



...unprecedented

Initial Network...

- 7,000+ Route Miles
- Averaging 50 fiber miles



...interconnects with Bell

Line Growth...

Local Lines

Route Miles

...leads network deployment

Quantum Growth...

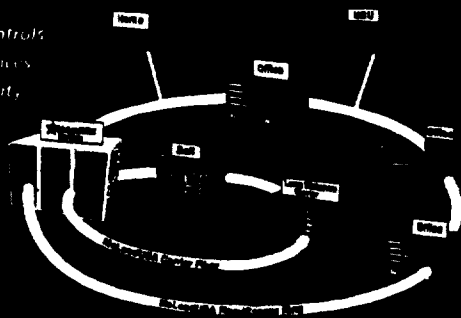
Revenue

EBITDA

...drives shareholder value

//// Migrate On-Switch...

- End-to-End Controls
- Enhanced Services
- Improved Quality
- High Margins



...existing and new customers

//// Key Acquisitions...



McLeodUSA



Timeline: 96, 97, 98, 99

Telecom USA

Consolidated Communications

BTCL

...accelerate regional ubiquity

//// Ovation Communications, Inc...

Locations

Minneapolis, Michigan
Milwaukee, Chicago

Facilities

564 Fiber Route Miles
26 Collocations
4 C.O. Switches

Management

150 Year CLEC Experience

Successes

46K On-Switch Lines Installed

Size

\$34.6 MM Revenue
\$4.4 MM EBITDA
10 MM Addressable Lines

...a great company, a great team

//// A Great Deal...

Consideration




Cash	\$141 MM
Stock	\$1 MM (Others)
Debt	\$33 MM

Key Terms

3-year Shareholder Agreement
Board seat
Voting Agreement

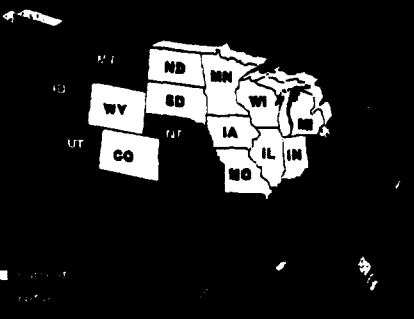
...reinforcing strategy

Significant Synergy Potential...

 McLeodUSA +  Southwestern +  McLeodUSA = Accelerated Growth	Avoided Capex \$40 MM PV of Operating Savings \$10 MM On Switch Processing Major Markets First in class Marketing and Customer Services Doubling Year Over Year New Lines Sold
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

...accelerated growth

Merger...



...expands addressable market 50%

McLeodUSA 1998 vs. 1999...

Revenue	New Lines Sold	Switches	Intracity Lines
1998	1998	1998	1998
1999	1999	1999	1999

...accelerates growth

McLeodUSA...

Brand and Product	Pervasive Coverage
Facility Based	RBOC Independent
Experienced Team	Expanded Opportunity
Accelerated Growth	Shareholder Value

...dominant, ubiquitous, regional CLEC

**RESALE COMPETITION IN NEBRASKA
AND NEIGHBORING U S WEST STATES
(As Measured by Reports Filed by U S WEST
in the Commission's Third Survey of Local Competition)**

Nebraska

Non-Residential Lines Served by U S WEST:	154,088
Non-Residential Lines Served by Resellers:	1,727 ¹

Colorado

Non-Residential Lines Served by U S WEST:	761,433
Non-Residential Lines Served by Resellers:	19,876

Iowa

Non-Residential Lines Served by U S WEST:	237,732
Non-Residential Lines Served by Resellers:	86,800

Minnesota

Non-Residential Lines Served by U S WEST:	655,349
Non-Residential Lines Served by Resellers:	65,161

North Dakota

Non-Residential Lines Served by U S WEST:	61,948
Non-Residential Lines Served by Resellers:	11,685

South Dakota

Non-Residential Lines Served by U S WEST:	74,960
Non-Residential Lines Served by Resellers:	13,253

Wyoming

Non-Residential Lines Served by U S WEST:	72,497
Non-Residential Lines Served by Resellers:	4,581

¹ Although McLeodUSA serves both residential and business customers through a resold Centrex Plus platform, U S WEST has apparently categorized all Centrex lines on its Local Competition Report as "Non-residential." The total number of resold lines provided here represents both lines provided under a Total Service Resale arrangement and those provided under other resale arrangements, including Centrex.

CERTIFICATE OF SERVICE

I, Michael R. Romano, hereby certify that a copy of the foregoing **Written Notice of Ex Parte Presentation of McLeodUSA Telecommunications Services, Inc., Docket No. 98-84** was sent to each of the following parties by overnight delivery on this 26th day of January, 1999.

SEE ATTACHED SERVICE LIST


Michael R. Romano

CERTIFICATE OF SERVICE

I, Michael R. Romano, hereby certify that a copy of the foregoing **Written Notice of Ex Parte Presentation of McLeodUSA Telecommunications Services, Inc., Docket No. 98-84** was sent to each of the following parties by overnight delivery on this 26th day of January, 1999.

SEE ATTACHED SERVICE LIST


Michael R. Romano

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Lincoln NE 68509

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Vice-Chairman
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